

PROCEEDINGS OF THE BOARD OF HEALTH MEETING
Tuesday, January 20, 2015
5:00 PM

Present: Audrey Murphy, J.J. Tibbetts, MD, Susan Paulus Smith, Harold Pfothenhauer, Richard Schadewald

Excused: Joe Van Deurzen

Staff Present: Judy Friederichs, Chua Xiong, Rob Gollman, Patti Smeester, Debbie Armbruster, Kevin Pontius

1. Call to Order

Audrey Murphy called the meeting to order.

2. Duke Energy presentation regarding Shirley Wind Turbines.

Audrey gave a brief outline of events leading to this meeting. After studying this issue for 4 ½ years, on October 14, 2104, the Brown County Board of Health passed a motion which read "to declare the industrial wind turbines at Shirley Wind Project in the Town of Glenmore, Brown County, Wisconsin, a human health hazard for all people, residents, workers, visitors and sensitive passersby who are exposed to infrasound low frequency noise and other emissions potentially harmful to human health." On October 31, 2014, the Board received a letter from Mr. Edward B. Witte requesting due process. At the November 11, 2014, Board of Health meeting attended by Mr. Witte and Mr. Louis Butler, the Board of Health established a special meeting with Duke Energy. At that time, a motion by Richard Schadewald read as follows, "For Duke Energy to present to the Board of Health any information they feel pertinent to our concerns about the Shirley Wind Project and any recommendations Duke Energy has to alleviate the concerns of Brown County citizens at a special Board of Health meeting scheduled for January 20, 2015." On December 15, 2014, as the chairperson, Audrey sent a letter to Mr. Witte inviting Duke Energy to appear at this meeting. Following that letter, the Board of Health received an email dated January 8, 2015, from Mr. Witte.

Edward Witte, an attorney with Gonzalez Saggio & Harlan Law Firm in Milwaukee, spoke on behalf of Duke Energy. Mr. Witte stated that the background the Board of Health Chair has provided is consistent with his understanding of how we arrived here tonight. Mr. Witte indicated that the Board of Health motion from November 11, 2014, requested Duke to present to the Board of Health with any information they feel pertinent to our concerns about the Shirley Wind Project and any recommendations Duke Energy has to alleviate concerns of the Brown County citizens.

Mr. Witte further stated that the scope of the presentation relates to information Duke Energy feels is pertinent regarding the Board of Health involvement in the Shirley Wind Project. He continued that while they respect the objectives of Board of Health to address issues of concerns presented, the Board's assertion of authority doesn't necessary mean that the Board or the County has legal jurisdiction over the Wind Farm. On January 8, 2015, Duke transmitted a letter to the Chair of Board of Health and corporation counsel setting

forth an analysis of the applicable law pertaining to wind energy systems in Wisconsin such as Shirley Wind Farm. This letter requested the Board of Health to rescind its human health hazard motion because the Board and the County lack authority to regulate the Wind Farm. Corporation counsel confirmed receipt of this letter on Monday, January 12, 2015. Later that week, Mr. Witte spoke with corporation counsel to see if there were any questions and also pointed out that the nature of the presentation that Duke was providing was strictly related to the proper regulation of the Shirley Wind Farm and the lack of county authority over the Wind Farm.

Mr. Witte explained the Brown County Board of Health does not have authority to regulate the Shirley Wind Farm pursuant to the human health hazard process. Under Wisconsin law, the legislature has identified the Wisconsin Public Service Commission ("PSC") and a local permitting authority (in this case, the Town of Glenmore) as the entities that regulate "wind energy systems," such as the Shirley Wind Farm. Mr. Witte indicated it is true that under this legal framework, a municipality, such as Brown County, has the authority to participate in the regulation of a wind energy system, but it can do so only by passing an ordinance that is no more restrictive than state law. Furthermore, such a county ordinance will not apply to a wind energy system that was previously approved pursuant to a valid development agreement, such as the Town of Glenmore conditional use permit. It also would not apply because any such ordinance would have been promulgated after PSC 128, the state law regulating wind energy systems, took effect March 16, 2012. Wisconsin law also prohibits counties from taking action to make policy related to wind energy systems. As part of its comprehensive regulation of wind energy systems, the Wisconsin legislature and the PSC established the Wind Siting Council "WSC" to assist at making informed decisions about changes to current regulations related to all aspects of wind energy systems. On October 31, 2014, the WSC determined that no additional regulation of wind energy systems, including any regulations to address a potential concern such as infrasound low frequency noise was necessary. Mr. Witte stated the WSC is clearly determined that at this point in time that infrasound low frequency noise will not be subject to changes to Wisconsin's wind energy system laws.

Mr. Witte indicated the Wisconsin Courts have upheld this regulatory framework of wind energy systems, including the limitations that are placed on counties. In his letter of January 8, 2015, Mr. Witte identified two cases, *Numrich v. City of Mequon Board of Zoning Appeals* that stated that this regulatory framework "is a legislative restriction on the ability of municipalities such as the county to regulate wind energy systems."

He stated in *Ecker Brothers v. Calumet County*, the Court found that the conditions identified in these laws are "circumscribing the power of political subdivisions, not openings for them to make policy that is contrary to the state's expressed policy". Mr. Witte states that based on those cases and the law that he has talked about, it is clear that if the County wanted to pass an ordinance to protect human health it cannot implement policy making standards such as an action like a human health hazard determination based on otherwise unregulated infrasound low frequency noise. Infrasound low frequency noise has not been addressed on a statewide basis by the PSC or the legislature. The only way that it has been identified or addressed is pursuant to the October 2014 WSC report. In that report the PSC specifically declined to regulate infrasound low frequency noise. Therefore, to the extent any policy exists in this area is the determination not to regulate this issue. For Brown County to seek to regulate infrasound low frequency noise by way of a human health hazard would be especially improper contrary policy making.

Mr. Witte summarized that the Wisconsin legislature has clearly established a structure to regulate the permitting and operating of wind energy systems relying on state law and local ordinance, for example the Town of Glenmore wind energy system ordinance. Legislature recognizes that a political subdivision could place certain restrictions on a wind energy system provided the restrictions serve to protect public health or safety but in such a case they can only place those restrictions by way of an ordinance that is no more restrictive than the PSC's existing standards for wind energy systems. That is not being applied to a previously approved wind energy system that is not promulgated subsequent to the states laws and PSC 128 and it does not constitute policy making of otherwise unregulated conditions. Therefore any effort by the Brown County Board of Health to restrict the Shirley Wind Farm through a finding of a human health hazard cannot succeed because it does not meet those standards. Mr. Witte requested the Board of Health take formal action to rescind and reverse is October 14 motion regarding the Shirley Wind Farm.

Richard Schadewald clarified that it is the understanding of Mr. Witte that the proper place to pursue a remedy in this situation is through the legislature and the PSC. Witte indicated yes.

Jake Eggert, 1210 Spartan Road, New Franken, WI – Mr. Eggert introduced himself and indicated he has a Master's Degree in Environmental Science and Policy from UWGB. Mr. Eggert indicated in accordance with the Code of Federal Regulations Title 45 Section 46.103, Mr. Eggert paraphrased that in order for a government agency to hear Mr. Acker's research, he must be certified by the National Institute of Health or U.S. Department of Health and Human Services and he is not. Mr. Eggert is certified by them. Mr. Eggert indicated this especially pertains to research in subjects involving children. Mr. Acker indicated he was involved in acoustical analysis. He worked with two families to see if there was an association between one family that was sick from a cooling tower and one from a wind turbine but that was a doctor working on the issue. He has been working on the association of noise to illness. Mr. Eggert's request is that we follow that procedure.

Jake Eggert pointed out that he believes the Board of Health should do a life cycle analysis on wind turbines and coal energy. The wind turbines are mitigating the coal being burned in Brown County and that Brown County is in the bottom 10 percentile for air quality in the nation and we are not looking at the complete health qualities of all citizens of Brown County. Mr. Eggert has also done research with the CDC and American Lung Association and according to their research, coal power plants kill about 13,000-15,000 per year. He is not sure how many are killed by wind mills. Whether there are health impacts or not we still have to look at the health impacts on the entire county. Mr. Eggert feels we need to investigate all angles of this before we make a motion that is going to have profound impact on the future of wind energy in our county or in our state.

Dr. Patricia Terry, Environmental Engineering Professor at the University of Wisconsin Green Bay, 1269 S. Quincy, Green Bay, WI 54301 – Dr. Terry stated she understands the need for and the importance of a peer reviewed process in gathering any type of scientific information that someone is going to make claims from. Dr. Terry brought a report that was conducted by the Massachusetts Department of Environmental Protection in collaboration with the Massachusetts Department of Public Health who convened an independent panel of experts to identify any documented or potential health impacts that may be associated with wind turbines. She quoted portion of the report. She indicated that what they have

found is that there are some best practices that can be employed that can minimize the impact on residents. Dr. Terry stated that wind turbines are widely used in the countries of Denmark and Germany. She went to Germany two years ago on a grant to study the differences between wind policy and implementation between the two countries and the difference that was found was that in Germany, when a community sites a wind turbine, everyone in the community has the opportunity to invest. In Germany the saying is "every flicker is euro." What they found is that there is no such thing as wind turbine syndrome in Germany. The conclusion that was made comparing the two countries is that wind turbine syndrome in the United States is mainly the "green eyed monster of jealousy," when your neighbor is making money from wind turbines are you are not. That has been the documentation and she thinks that if are going to make a ruling on the effects on the health impacts of wind turbines in Brown County we need to go on peer review.

Dr. Terry stated further to what Jake Eggert reported, if we are going to talk about the health effects of wind turbines we need to do a comparative with our current mode of electricity which is coal burning power plants. Brown County has some of the worse air pollution in the State. She stated that coal releases chemicals that can contribute to acid rain to global climate change to photochemical smog. They also release things like lead and mercury into our waterways and arsenic into our waterways that makes the fish in our waterways inedible. She concluded that if we are going to do a fair impact study we need to do a comparative study between fossil fuel based energy and wind energy and she thinks when we do that we will find that wind energy poses little or no threat to human health and our current fossil fuel energy is a human health disaster.

Mr. Schadewald asked Dr. Terry for a list of best practices that were in the report she mentioned and said he would like a copy.

Audrey commented that this Board of Health has never said in the 4 ½ years that we have studied this issue that we are opposed to wind energy and it was important to be clarified.

William Acker, President of Acker & Associates, 3217 Nicolet Drive, Green Bay, WI - Mr. Acker started working on this issue with a cooling tower in downtown Green Bay which produces the same type of pressure pulsations that wind turbines do and then got pulled into the wind turbine issue as he was researching the cooling tower. He got contacted by a family that thought they were getting sick from wind turbines. He has been an engineer since 1975 and has been working on this issue for 7 years, donating his time to find the truth to this issue. He has not made any money on any of his work on this issue. The medical evidence related to illnesses from infrasound is very strong in his opinion. He stated Professor Alec Salt, an Otolaryngologist at the Washington University School of Medicine, knows more about the workings of the inner ear than anyone he knows. But still many do not pay attention. He states he is a supporter of wind turbines but we need to push this industry to solve their problems and until then we need to provide infrasound and low frequency noise codes to protect the public from the sound pressure pulsations that are making people ill, like some of the European countries have already done.

James Vanden Boogart - 7463 Holly-Mor Road, Town of Morrison, WI – Mr. Vanden Boogart was an alternate member of Wind Siting Council during 2014. Mr. Vanden Boogart states the Wind Siting Council (WSC) 2014 Report is an opinion, not regulation. He indicates there are 14 members on the council, 6 clearly pro-health members, 8 clearly pro-wind members. He indicated the PSC staff itself drafted the entire document and PSC staff has been known to be very pro-wind and that was the tenor and the flavor of the document.

After that was drafted it was sent to council members. They had an opportunity to send comments and ask for changes based on how the staff presented the information in a peer reviewed literature. Anything that was not unanimously agreed upon was voted on by the council. A simple majority vote and the pro-wind majority won almost every single vote to include things and to exclude things. The resulting report is very biased in its opinion. He indicates there is a minority report, Appendix F contained in that report which is the opinion of the minority of the WSC. All the legislation suggested by the minority was voted out by the majority. He would not trust that report because it was a very biased process. It is just an opinion. We need to know how opinions are produced when reading reports.

Richard Schadewald asked Mr. Vanden Boogart for the Wind Siting Council Minority Report Appendix F. Audrey indicated we will get him a hard copy of that document.

Steve Deslauriers, 2889 Wayside Road, Holland, WI – Steve wanted to share his frustration and indicates this feels like the speech that We Energy gave about 5 years ago basically denouncing that there is any truth to the health claims and simply throwing up procedural road blocks. He states these are real people that did not have an opinion on wind energy before the project was built that are suffering day in and day out. He states there are homes for sale in Glenmore and he can't imagine why there is a not an environmentalist that wants to buy it. He states we are not against environmental issues. He has planted 15,000 trees on his land. He knows people who restored prairie on their property. He states they do the right thing for the environment on our properties for our communities, for our families.

Steve begs the people speaking in support of this industry not to be manipulated by this industry. He states it is a propaganda machine that asserts no harm but they cannot prove that there is no harm to these people. He states the Wind Siting Council is made up of people who operate wind farms, profit from wind farms, and quasi environmental groups who receive a substantial portion of their funding from wind farms. He states you cannot go into that room and objectively create rules when you are under so much financial pressure to serve the industry. He states this is not about coal. This is about proper citing of generation facilities. Just like there is a proper place for coal plant, a proper place for a nuclear plant and then to say that there is no restrictions for wind and they are placed next to people's homes 1,000 – 1,250 feet. It is not about the technology. It is all about proper siting.

Jake Eggert – He would like to clarify that he is not representing any group other than just his family and the families of Brown County. He is concerned with the health of his family and that there is no concern with the air quality prior to the wind (turbines).

Sandra Johnson – 1893 Wayside Road, Greenleaf, WI – Retired Green Bay teacher who earned a BS degree in natural science from UW-Madison and has a degree from UWGB in elementary education. She has been working on this going on 6 years. She has been in the homes of two of these families that have vacated their home. She got sick in 45 minutes with left sided ear pain and nausea. She would like the focus of the meeting to focus on Glenmore and not coal. She stated that if she were to ask the people in this room who are on the salary of wind corporations to raise their hand if they live near a wind turbine, probably no one here who is pro wind lives near a wind turbine. She commented that no one has talked about the high levels of stray voltage in these homes. Stray voltage and EMFs (electromagnetic fields): anytime you have current in a conductor, you have EMFs. She states they are not wind mills, they are industrial machines.

The Madison Police department, when they get new cars, have a howler, which is a system below the headlights that shoots out LFN so if they come to a busy intersection in Madison it will cut through the sound of a radio in your car, people talking, even perhaps someone with headphones on so that they get their attention and get through the intersection. The LFN in the squad car can only be on for 7 seconds because it could affect the ability to control the vehicle at high speed. She is going to side with NASA and the Department of Energy Engineers who did a report in 1990 after they studied industrial wind turbines which said don't put these machines close to people. If you do, they are going to get sick with this acoustics energy. They are going to have ear pressure, ear pain, tinnitus, nausea, sleep loss.

Carl Johnson – 1893 Wayside Road, Greenleaf, WI – He is a retired social studies teacher and environmental study teacher from Kaukauna high school. He has been studying this issue for close to 5 years and it has caused him to become angry, to become cynical, to join the vast majority of Americans who have lost faith in the governmental institutions that we have created to supposedly protect us and take care of us in time of need. He states the passage of Act 40 basically took away local municipalities ability to regulate industrial wind systems. In terms of policies that are made by the WSC, right now 1,250 feet is considered the safe distance to construct a wind turbine from a home. As it turns out, 1,250 feet is maximum distance that you can place between a wind turbine and a residence and still get it on a 40 or 80 acre parcel of land in Wisconsin. A member of the WSC stated at a meeting when the wind facility at Glacier Hills was being constructed, when they increased the distance to 1,300 feet, he said something on the order that all but 5 of the 80 turbines would have been scrapped because that distance would not have allowed them to be built on a parcel of land. What appears to be a health concern or mask as a health concern is nothing more than an expedite for citing these things as close to people as possible. There is a need for more research and low frequency noise is the key.

Mr. Schadewald asked what his experience is going through the legislative hearings as far as being effective in getting your point of view across. Mr. Johnson said they have always been given time to speak. He states there is a very small group of people in the Wisconsin legislature who have taken the time to look at this and be sensitive to what is happening. He states the votes in rural Wisconsin are too far apart and it is his feeling that the influence of big money that is driving this is making it impossible for our legislative institution to properly take up this issue of human health. He believes there are people in the environmental community that think the Shirley wind is a community based wind project but it is multimillion dollar corporate entity. He states some people in Shirley Wind have 5 times the stray voltage at the kitchen sink than is what is allowable for a dairy cow in a barn in Wisconsin. There are no standards for people. Mr. Schadewald asked if he was a member of any group that is working on this and he indicated he was part of Brown County Citizens for Responsible Wind Energy.

Barb Vanden Boogart – 7463 Holly-Mor Road, Greenleaf, WI - She is one the executive members of the Brown County Citizens for Responsible Wind Energy. For the last 5 years, they have worked to research this issue to advocate for, to inform, and to educate concerning the issue of industrial wind turbines and their impact on populations. She has interviewed numerous people who have experienced what is referred to as wind turbine syndrome, not only in Brown County but across the nation. She communicates with scientists, engineers and physicians on a regular basis that are researching this issue. From her perspective, based on interviews she has done with individuals and from the science, she considers what is happening to people across the world being exposed to

industrial wind, to be a human health crime for the purpose of profit. In 1987, Dr. Phillips did research on nausea related to aircraft and spacecraft for NASA. To their surprise, during the process of testing, they realized that people being exposed to wind turbines as far back as 1987 experienced the same symptoms-not only with down wind turbines, but with up wind turbines as well. NASA was involved in this testing and they were fully aware of this issue regarding wind turbines. They told the wind industry that this problem existed, and that infrasound was indeed generated and documented as a result of their tests. The wind industry has been aware of this since 1987. She states the Wind Siting Council within Wisconsin refused to look at the documentation of the five acousticians that did the 2012 low frequency sound testing within the Glenmore project. All five came to the same conclusion that low frequency sound was detected in significant levels.

Susan Ashley – 309 Prospect Avenue, Denmark, WI – Susan has a letter she would like to read that was sent to Duke Energy addressed to Ben Jordan, Eric Cavanaugh and Robert Jones and sent on August 8, 2013. She read several parts of that letter asking Duke for a letter declaring that they are safe and to date we have not received a response.

Dr. Terry wanted to clarify that she is not in any way tied to the wind industry but just another concerned citizen who holds a different opinion.

MOTION: To return to the regular order of business.
MOTION CARRIED

Tibbetts/Schadewald

Adjournment / Next Meeting Schedule
MOTION: To adjourn meeting at 6:21 PM.
MOTION CARRIED

Tibbetts/Pfotenhauer